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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,470	09/12/2003	Tor Rafael Lund	134/125	4956
27612	7590	11/17/2005	EXAMINER	
AVERILL & VARN			WILLATT, STEPHANIE L	
8244 PAINTER AVE.			ART UNIT	
WHITTIER, CA 90602			PAPER NUMBER	

3732

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/660,470	Applicant(s) LUND ET AL.	
	Examiner Stephanie L. Willatt	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-11,13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-11,13 and 14 is/are allowed.
- 6) ☒ Claim(s) 1,3-7 and 15-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities: a comma should be inserted between "clippers" and "the hand graspable portion" on line 19 of claim 1.

Appropriate correction is required.

2. The claims are objected to because they include reference characters which are not enclosed within parentheses.

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims.

See MPEP § 608.01(m).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1, 3-7 and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rende (US 6,523,545) in view of Ohori (US 5,490,327).

Rende discloses a nail clipping assembly including a pair of clippers for clipping a fingernail or toenail. The nail clippers have an upper arm and a lower arm (elongate member 12,14). Each arm has a blade end (16,18) and a joined end and the upper and lower arms (elongate member 12,14) are joined at their joined ends. The upper arm (elongate member 12) has an upper blade at its blade end (16) and the lower arm (elongate member 1) has a lower blade at its blade end (18). The upper and lower blades (16,18) are aligned to meet to form a cutting line. An operating lever (26) is held to the pair of nail clippers so that the depression of the operating lever causes the upper blade (16) to move downwardly and meet the lower blade (18) to create a cutting action.

A light source (46) is held near the upper and lower blades (16,18) and is positioned below said lower blade (Figure 4), said light source emitting a beam of light so that when a finger is moved so that an extending nail portion at a distal end of the finger moves between the upper blade (16) and the lower blade (18), the light source (46) will illuminate at least that portion of the interior of the finger under its nail so that an intersection between the extending portion of the nail and the finger is clearly visible. The beam of light emitted from the light source (46) illuminates the "region beyond said first end of said elongate members [12,14]", as stated in lines 37-42 of column 6, from below. Therefore, the light source (46) illuminates the intersection between the nail and

the finger. A means for energizing the light source (46) includes a battery (48) and a switch, as described in column 5, lines 4-8.

A holder (housing 29, misprinted in specification as 26) has a recess along the top for holding the pair of nail clippers so that the upper (16) and lower blades (18) thereof may be moved adjacent the end of a subject's finger end and over a subject's extending nail. The holder (housing 29) has a hand graspable handle and a cutting end. The holder (housing 29) further supports the light source at its cutting end, as shown in Figure 4. The holder (housing 29) has a receptacle (small housing 50) for holding the means for energizing the light source (battery 48 and switch). The light source (46) is a pen light, as discussed in column 5, lines 4-8. It is well known that pen lights have incandescent bulbs. The finger tip portion of the subject's finger could be moved to any distance from the tip of the light bulb, even when the light source is located in the receptacle, since it is not fixed to the apparatus.

Rende does not disclose the distance between the bulb and the finger tip of a user when the subject's finger is located so that the fingernail is between the upper and lower blades. However, claim 6 of Rende states that the light is mounted for "illuminating a region beyond said first end of said elongate members." It would have been obvious to one having ordinary skill in the art at the time the invention was made to position the bulb within the holder so that its tip is within at least about one-eighth of an inch from a finger tip portion of the subject's finger when the subject's finger is located so that the fingernail is between the upper and lower blades, since it has been held that where the general conditions of a claim are disclosed in the prior art,

discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233 (CCPA 1955).

Rende does not disclose that the holder extends past the joined end of the nail clippers, as recited in lines 16-18 of claim 1. Rende also does not disclose that the holder is shaped with a forward portion that is smaller in cross-section than a hand graspable portion. However, in Figure 3, Ohori discloses a holder (retainer 10) supporting a pair of nail clippers (11). A hand graspable portion is behind a forward portion (front portion of recess 22') and extending substantially rearwardly past the joined end to facilitate holding and operating the pair of nail clippers, as shown in Figure 3. The hand graspable portion is large enough to provide a rest for a user's fingers on one side and palm on the other side. A transition portion (rear portion of recess 22') is between the forward portion (front portion of recess 22') and the hand graspable portion. The forward portion (front portion of recess 22') is smaller in cross-section than the hand graspable portion. The forward portion (front portion of recess 22') and transition portion (rear portion of recess 22') provide a rest for the user's index finger proximal to and behind the blades. The forward portion (front portion of recess 22') and the transition portion (rear portion of recess 22') are rounded. The transition portion (rear portion of recess 22') slopes upwardly and forwardly from the hand graspable portion to the forward portion (front portion of recess 22'). The transition portion (rear portion of recess 22') slopes upwardly and forwardly from the forward portion to the hand graspable portion, as shown in Figure 3. The hand graspable portion is rounded. The holder (retainer 10) is shaped as described above in order to facilitate manipulation

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of the nail clipper (11) and holder (retainer 10) during use, as explained in column 2, lines 25-28.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to extend the housing of Rende past the joined end of the nail clippers so that it encloses the joined end of the nail clippers, as taught by Ohori, since an enclosed end would be an art recognized functional equivalent of the foam seal of Rende. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the holder of Rende shaped with a forward portion that is smaller in cross-section than a hand graspable portion, as taught by Ohori, in order to facilitate manipulation of the nail clipper and holder during use. The method is performed by the combination of Rende and Ohori.

#### ***Allowable Subject Matter***

5. Claims 8-11, 13, and 14 are allowed.

#### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1, 3-7 and 15-21 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

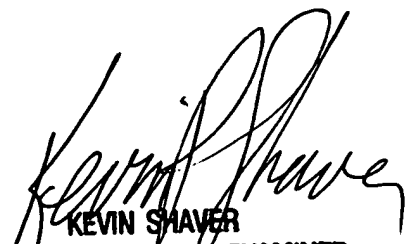
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie L. Willatt whose telephone number is (571) 272-4721. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
slw

  
**KEVIN SHAVER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**